

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

ANDREW CHANG and RYAN SANTOS, on behalf of themselves, FLSA Collective Plaintiffs and the Class,

Plaintiffs,

v.

PHILIPS BRYANT PARK LLC d/b/a BRYANT PARK HOTEL, PHIL COLUMBO and MICHAEL STRAUSS,

Defendants.

No. 17-cv-8816

DECLARATION OF C.K. LEE IN SUPPORT OF PLAINTIFFS' MOTION FOR AN ORDER (1) CONDITIONALLY CERTIFYING SETTLEMENT CLASS AND COLLECTIVE ACTION, (2) GRANTING PRELIMINARY APPROVAL TO PROPOSED CLASS ACTION SETTLEMENT AND PLAN OF ALLOCATION, (3) DIRECTING DISSEMINATION OF NOTICE AND RELATED MATERIAL TO THE CLASS, and (4) SETTING DATE FOR FAIRNESS HEARING AND RELATED DATES

I, C.K. Lee, declare as follows:

1. I am a partner in the firm of the Lee Litigation Group, PLLC (“LLG”) in New York, New York, and Plaintiffs’ counsel herein. I respectfully submit this declaration in support of Plaintiffs’ motion requesting the Court to: (1) grant preliminary approval of the Global Settlement Agreement (“Settlement Agreement”) attached as Exhibit A hereto, (2) conditionally certify the settlement class under Federal Rule of Civil Procedure 23(b)(3) and 29 U.S.C. § 216(b) for settlement purposes only, (3) approve the proposed Notice of Class Action Settlement (“Proposed Notice”), attached as Exhibit B hereto, (4) approve Plaintiffs’ proposed schedule for final settlement approval and set a date for the Fairness Hearing and related dates, (5) appoint LLG as Class Counsel (“Class Counsel”) for the settlement class, and (6) appoint Rust Consulting as the Claims Administrator.

2. I am the lawyer primarily responsible for prosecuting Plaintiffs’ claims on behalf of the proposed class.

3. I make these statements based on personal knowledge and would so testify if called as a witness before the Court.

My Background and Experience

4. I received a BS/BA from the University of Michigan/Ann Arbor, with concentrations in Biology and Chinese Language & Culture. I received a Juris Doctorate degree from The University of Pennsylvania Law School in 1997. I was admitted to the New York bar in 1998. I am also admitted to the bars of the United States Supreme Court, the Second Circuit Court of Appeals, and the United States District Courts for the Eastern, Southern, Western and Northern Districts of New York. I am a member in good standing of each of these bars. I have served as lead counsel in hundreds of wage and hour class and collective actions.

5. Prior to establishing my own firm, I was associated with some of the top firms in New York City, including Clifford Chance, Morrison & Foerster and Schulte Roth & Zabel.

6. Since April 2009, a substantial part of my practice is engaged in prosecuting wage and hour class and collective action cases.

7. I have been appointed as lead counsel in over 70 wage and hour cases that district courts have certified as class actions and/or collective actions including, among others, *Santana, et al. v. Fishlegs LLC, et al.*, No. 13 Civ. 1628 (S.D.N.Y. 2016); *Perez v. Dos Toros, LLC, et al.*, No. 14 Civ. 9183 (S.D.N.Y. 2016); *Sanchez v. JMP Ventures, L.L.C., et al.*, No. 13 Civ. 7264 (S.D.N.Y. 2015); *Carillo v. 27-39 East 30 Rest. Corp., et al.*, No. 13 Civ. 4491 (S.D.N.Y. 2015); *Viafara v. MCIZ Corp., et al.*, No. 12 Civ. 7452 (S.D.N.Y. 2014); *Romero v. La Revise Associates LLC, et al.*, No. 12 Civ. 8324 (S.D.N.Y. 2014); *Sanjaya v. Inakaya USA, Inc.*, No. 12 Civ. 4500 (S.D.N.Y. 2012); *Han v. AB Gansevoort*, No. 11 Civ. 2423 (S.D.N.Y. 2012); *Marte v. Energy Resources*, No. 11 Civ. 2490 (S.D.N.Y. 2012); *Han v. Sterling National Mortgage*, No. 09 Civ. 5589 (E.D.N.Y. 2012); and *Amaya v. 166 Park*, No. 11 Civ. 1081 (E.D.N.Y. 2012), among others.

Nature of Plaintiffs' Claims

8. Plaintiffs and Class Members allege that Defendants failed to pay (1) overtime premium, (2) wages due to time shaving, (3) tips earned at private catering events that were illegally retained by Defendants, (4) portions of tips earned on room service orders illegally

deducted and retained by Defendants, and also that Plaintiffs are owed (5) liquidated damages and (6) attorneys' fees and costs

Investigation and Discovery

9. Before filing the Complaint, Plaintiffs' Counsel conducted a thorough investigation. This included investigation and legal research on the underlying merits of the class claims, the likelihood of obtaining liquidated damages, the proper measure of damages, and the likelihood of class certification.

10. LLG had in-depth interviews with the named Plaintiffs. LLG also obtained documents and data from the named Plaintiffs that helped evaluate the risks of the case.

11. Discovery in this case has consisted of reviewing and analyzing documentation produced by Defendants, including thousands of pages of payroll and time records, as well as class-wide data containing, among other things, potential class member employment dates, job titles, and pay rates. Such documents were analyzed to calculate the damages owed to the named Plaintiffs and the Class Members.

12. Plaintiffs' Counsel has provided a benefit to the class and the judicial system by agreeing to cooperate in the prosecution and settlement of this case.

Settlement Negotiations

13. In or about March 2018, the parties began to discuss mediation. The parties agreed to engage in private mediation session overseen by Carol Wittenberg of JAMS.

14. Plaintiffs submitted a detailed mediation statement that explained the claims, noted Defendants' vulnerabilities, acknowledged risk, and explained the damage calculations.

15. On July 30, 2018, the Parties engaged in a full-day in-person mediation with Carol Wittenberg, a highly respected mediator experienced in resolving complex employment disputes who is currently affiliated with JAMS.

16. The parties reached a settlement in principle and entered into a Term Sheet and, during the months thereafter, continued negotiating the terms of the class settlement, which was memorialized in the formal Settlement Agreement. (*See Exhibit A.*)

17. At all times during the settlement negotiation process, negotiations were conducted on an arm's-length basis.

Settlement Agreement

18. A true and correct copy of the parties' Settlement Agreement is attached as **Exhibit A.**

19. Under the Agreement, all class members will opt-in to the Fair Labor Standards Act ("FLSA") collective action by signing, negotiating, depositing or cashing their settlement checks, which contain opt-in acknowledgment language.

20. There are approximately 367 Class Members in this case.

Claims Administration

21. The Claims Administrator will be Rust Consulting, a third-party administration company.

22. The Claims Administrator's fees will be paid out of the Settlement Fund.

23. Attached as **Exhibit B** hereto is the proposed Notice of Class Action Settlement ("Proposed Notice").

24. Attached as **Exhibit C** hereto is the proposed Change of Address Form.

I declare under penalty of perjury, under 28 U.S.C. § 1746, that the foregoing is true and correct.

Dated: January 10, 2019
New York, New York

By: /s/ C.K. Lee
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